IN THE SUPREME COURT OF THE UNITED STATES

STATE OF MINNESOTA,

Petitioner,

—vs.—

FIRST NATIONAL BANK OF ST. PAUL,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI DIRECTED TO THE SUPREME COURT OF THE STATE OF MINNESOTA

PETITION FOR WRIT OF CERTIORARI

—and—

BRIEF IN SUPPORT THEREOF

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Attorney General.
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PETITION FOR WRIT OF CERTIORARI

To the Honorable the Chief Justice of the United States, and the Associate Justices of the Supreme Court of the United States.

Your petitioner respectfully states and shows to the court as follows:

In 1921 and 1922 the Respondent, First National Bank of St. Paul, refused to pay taxes assessed against its shareholders in the amounts, $160,857.54, and $160,591.26, respectively. These taxes were assessed in the same manner as they had been for half a century. All other National Banks in Minnesota, except two, both small banks, paid taxes assessed under the same system in both years.

The objection was that shares of National Banks were assessed on an ad valorem basis which resulted in applying to 40% of the value of their shares, the current general tax rate applicable to all real and tangible personal prop-

erty in the several taxing districts of the State, while money and credits were taxed, under a law in force since 1911, at a flat three mill rate. Other objections, not sustained, were that real estate mortgages were subjected to a registry tax not higher than 25c per hundred dollars on the debt secured, under a law in force since 1907, and Trust Companies were assessed on a gross earnings basis, under a law in force since 1913. It was further contended that the system of taxing state banks worked a discrimination against National Banks.

The ad valorem rate applicable to bank shares was 67 mills in Ramsey County for the year 1921 and 61.5 mills in 1922.

It was claimed that these laws affecting money and credits, real estate mortgages, trust companies and state banks operated to tax competing moneyed capital in the hands of individual citizens of Ramsey County and of Minnesota at a lower rate than taxes on shares of Respondent Bank in violation of Section 5219, Rev. Stat., U. S.

The decision of the Supreme Court of the State of which review is sought, insofar as it is in favor of the Respondent Bank, is based solely upon the workings of the Money and Credits Tax Law, of 1911. We, therefore, assume that this petition should deal only with the ruling on that objection.

The proof was that the Act taxing all money and credits at the fixed rate of 3 mills on each dollar of value was adopted in 1911 because the State had wholly failed, as had every other State before and since, in its efforts to collect taxes on any appreciable amount of money and credits. The plan of the law was to recognize the inability of the State to tax such property, to place a low flat tax rate on such money and credits as taxpayers would list, making the listing binding on assessors, and thereby en-

courage voluntary disclosures of such property in such amounts as to increase revenue therefrom. Such a plan had been tried successfully in other States, notably Maryland. National Banks had contended that the Maryland law was in violation of Section 5219, but the Circuit Court of Appeals in an impressive opinion, (National Bank vs. Mayor of Baltimore, 100 Fed. 24) had held otherwise. Upon this experience and at the instigation of the State Tax Commission, the law was adopted and went into effect in the year of its enactment. Revenues from this class of property almost immediately increased in Ramsey County, in which St. Paul is situated, and over the whole State, and continuously since then such revenues have increased, not only actually, but their increase has kept pace with increases in revenues from other property and from shares of National Banks.

There was further proof that fairly compared there was no actual difference in tax burdens—in the actual out-of-pocket results,—between the Money and Credits Tax and the tax on shares of National Banks, although the rates were widely different. It is sufficient here to say that this results from the fact that corporations and individuals are taxed on the full value of their money and credits while shareholders of National Banks are taxed on 40% of the book value of their shares, but mainly it occurs because individuals and corporations are taxed on such full value without offsets for debts or liabilities while in the system applicable to shares there inheres taxation of values remaining after the deduction of all liabilities.

It was shown that individual citizens of Ramsey County on May 1, 1921, listed under the Money and Credits Act, promissory notes of the value of $2,481,446, bonds of the value of $7,595,975, and book accounts of the value of $2,566,712. For 1922, the showing was not materially differ-

ent. It was shown too that they listed other forms of money and credits distributed among 12 other items, but since the Supreme Court of Minnesota referred only to these three items, we consider that only such items need be adverted to in this petition. In respect of promissory notes listed in Ramsey County the county assessor, testifying from direct contact with the larger taxpayers, declared that the larger part of this item represented notes taken by corporations and business concerns from customers in payment of past due indebtedness. He was unable to give any information concerning promissory notes held by individuals. As to bonds, he was able to testify that those in the tax lists reflected investments of savings or surplus funds—that is they were not held in any business of dealing in bonds. He threw no light on the item "book accounts." There was opinion evidence in addition. The president of respondent bank, supported to some extent by the president of a second National Bank, testified that in his opinion substantially all credits represented in the Money and Credits lists constituted moneyed capital coming in competition with National Banks. The president of the largest State Bank in St. Paul expressed the opinion that the lists included no moneyed capital appreciably coming in competition with either State or National Banks. And there was some other testimony upon which, however, the Supreme Court did not base its decision, which will be referred to in the annexed brief.

The Supreme Court of Minnesota thought that the exact limitations of Section 5219 prevented its giving any consideration to the purposes of the Money and Credits Act or its results in increasing taxes on property of that class, and thought that the prohibition against taxing national banks as distinguished from taxing shares, prevented any weighing of relative burdens involving a consideration,

however indirect, of the property reflected in the values of the shares, and it proceeded to determine whether, under the decisions of this Court, promissory notes, bonds and book accounts held by individuals of Ramsey County constituted moneyed capital coming into competition with National Banks. And it felt constrained to declare that proof of the existence of promissory notes, bonds, and possibly book accounts in the hands of individual citizens in the amounts indicated, established the fact that a material amount of moneyed capital reflected in the Money and Credits list came into competition with National Banks.

The decision rests squarely on the proposition that this Court has ruled that placing surplus funds "at interest in the form of ordinary loans or investing them in interest bearing securities whether as permanent personal investments or for temporary purposes, brings them in competition with National Banks within the meanings of Section 5219 as it stood prior to the amendment of 1923."

And this, together with the ruling that the States are so limited by that Section that they may not tax their citizens on money and credits at a rate which is lower than the rate on bank shares regardless of whether such a scheme of taxation is enacted in a spirit of hostility to National Banks and even though it may actually help them in common with all other owners of tangible property, and the ruling that the terms of the Act forbid a lower rate on money and credits, even though the other factors which combine with the rate to determine taxes payable, operate to equalize the tax burden, are the rulings which we ask the Court to review.

We submit that the rulings of this Court mean that Section 5219 is to be interpreted so as to defeat discriminatory and injurious taxation of shares of National Banks where that discrimination is exercised by favoring moneyed cap-

ital of individuals which is employed in competition with the capital of National Banks. They mean that the Act is not to be narrowly applied but that its intent and spirit is to be carried out. They mean that the comparison of taxes will not be confined to rates, and particularly where the methods of taxing the two classes of property are essentially different, actual results will determine the equality or lack of equality of the respective tax burdens. They do not mean, we think, that this Court has determined that any recognized class or classes of credits necessarily come in competition with National Banks. Particularly, we insist, this Court has not ruled that promissory notes, or bonds, or books accounts, are per se moneyed capital coming in competition with National Banks.

We submit that the Minnesota Supreme Court has misapplied the controlling decisions of this Court.

The case is stated, the facts are presented, and the decisions of this Court are referred to somewhat more fully in the accompanying brief. We limit this petition to a summary statement of the matter involved.

THE QUESTION HERE PRESENTED IS ONE OF GREAT PUBLIC INTEREST

In 1921 there were Three Hundred Forty National Banks in Minnesota (R. 363, Defendant's Exhibit M) and there were Eleven Hundred Sixty State Banks (R. 350, Exhibit C). All of these banks, except respondent, two small National Banks, and two joint stock land banks, paid their taxes. In 1922, the situation was substantially the same. For subsequent years and for the future, notwithstanding the 1923 amendment to Section 5219, and an amendment of the Money and Credits Tax Law of Minnesota, in 1923, doubt as to the taxability of shares of National Banks, and in conse-

quence doubt of the taxability of shares of State Banks, exists. While we do not believe that taxes which were paid in Minnesota for the years 1921 and 1922 by State or National Banks can be recovered back, nevertheless, the question will arise and will not be wholly free from doubt, if the decision in this case is permitted to stand.

Public interest in the question is not confined to Minnesota. The issue has been in litigation with various results, in the past few years, in a great many states, particularly in the Northwestern States. Without undertaking to be absolutely accurate, we assert that laws taxing shares of National Banks in some twenty-two states, as those laws read in 1921 and 1922, were invalid if the ruling of the Minnesota Supreme Court correctly states the law, since those states either had Money and Credits Tax laws (of which there were nine,) or classified systems of taxation (of which there were twelve,) or because they had income taxes, under all of which systems money and credits are either wholly or partially exempted from taxation, or are taxed at an appreciably lower rate than shares of National Banks. (Digest of State Laws relating to Taxation and Revenue, 1922. Department of Commerce, Census Bureau.)

Three cases involving the validity of such laws in States other than Minnesota are now before this Court for consideration, on writs of error. Each case turns upon the true meaning of Section 5219, and of the proper application of the decisions of this Court under it. Each, we believe, is at variance with the ruling of the Minnesota Supreme Court. They come from Iowa, Wisconsin and Kentucky. We describe them briefly as they are presented in the published opinions.

In First National Bank of Guthrie Center vs. Anderson, 192 N. W. (Iowa) 6, the issue was determined upon demurrer; the system of taxing shares of National Banks in

Iowa is similar to that existing in Minnesota. Its Money and Credits Act is similar to the Minnesota law with the exceptions, that the rate is 5 mills, real estate loans apparently are included, and by separate provision, "moneyed capital within the meaning of Section 5219 of the Revised Statutes of U. S." is subject to taxation at the same rate as bank stocks. The allegation of the petition principally discussed was, quoting from the opinion, that "a sum believed to exceed $5,000,000.00 is loaned or invested in Guthrie County by individuals which is assessed at the flat rate of 5 mills on the dollar," the assessment of bank shares being at the rate of 143.5 mills on the dollar. The Court treated the issue as one involving the right of the State to tax shares of National Banks at a higher rate than that imposed on real estate mortgages and concluded, after a discussion of the manner and extent of banking participation in mortgage loans, that this allegation failed to show the existence of moneyed capital coming in competition with National Banks within the meaning of Section 5219 as interpreted in the decisions of this court.

In First National Bank vs. City of Hartford, 203 N. W. (Wisconsin) 721, the Supreme Court of Wisconsin held that the taxation of shares of National Banks under a law similar to the Minnesota law, except that in Wisconsin "banks" include every person or corporation soliciting or receiving deposits of money, was not invalid under Section 5219, because individual citizens were taxed on their income and their money and credits were exempt from taxation. It was not claimed that the income tax was equal, or equivalent, to the tax on bank shares. The Court considered many different kinds of credits referred to in the evidence, and recognizing that the exempted capital included notes bearing interest, and bonds, and other interest-

bearing securities held by many individuals, declared that such proof did not demonstrate the existence of moneyed capital in the hands of individual citizens in material amounts coming in competition with National Banks. The findings of the trial court were set aside and judgment was ordered against the bank. This case turned squarely upon the interpretation of Section 5219 and upon the proper applications of the decisions of this Court thereunder.

In McFarland vs. Georgetown National Bank, 270 S. W. (Kentucky), 995, the Court of Appeals of Kentucky sustained taxes assessed against shares of National Banks under the classified taxing system of that State. The statutes provided for the assessment of the Bank shares for both state and local purposes, but exempted money and credits from all local taxation. It appears from the discussion that there was evidence tending to show the existence of promissory notes in the hands of individuals which were exempted from local taxation, but the Court said that it had not been shown that any appreciable amount of money held by individuals was used in making loans such as banks make, and concluded that no material part of the capital held by individuals was so invested as to come in competition with National Banks.

It may be noted too, that in the Kentucky case, the Court held that the 1923 amendment of Section 5219 was retroactive in its operation. The Minnesota Supreme Court had the Kentucky case before it while this case was under consideration. Our Court expressly declined to follow the ruling of the Kentucky court in this respect and held that the amendment was not retroactive and could not be taken into consideration in determining the law question before it.

We submit that the decisions in these cases establish the necessity of a review by this Court of the decision of the Minnesota Supreme Court, not only because they show a

widespread public interest, and doubt as to the correctness of the Supreme Court of Minnesota's application of the prior decisions of this Court, but because they present a parallel with the situation which exists when a Circuit Court of Appeals renders a decision in conflict with another Circuit Court of Appeals on the same matter.

Furthermore, it would be manifestly unfair to permit this decision to become final while cases are pending here on writs of error which, if they are affirmed, will demonstrate that the Supreme Court of Minnesota decided the controversy before it under the compulsion of an erroneous view of the rulings of this Court.

WHEREFORE, your petitioner respectfully prays that a Writ of Certiorari be issued under the seal of the Court, directed to the Supreme Court of the State of Minnesota, commanding the Court to certify and send to this Court, on a date to be designated, a full and complete transcript of the record and all proceedings of the Supreme Court of the State of Minnesota, had in said cause, to the end that this cause may be reviewed and determined by this honorable Court.

And your petitioner will ever pray.

CLIFFORD L. HILTON,
Attorney General, State of Minnesota.
G. A. YOUNGQUIST,
Assistant Attorney General.
HARRY H. PETERSON,
County Attorney, Ramsey County.
ROY A. MACDONALD,
Assistant County Attorney.
PATRICK J. RYAN,
Attorneys for Petitioner.

STATE OF MINNESOTA,
County of Ramsey. ss.

Clifford L. Hilton being first duly sworn says upon oath that he is the Attorney General of the State of Minnesota, and one of the attorneys for the State of Minnesota, the above named Petitioner; that he has read the foregoing Petition and knows its contents, and that the facts therein stated are true to the best of his knowledge and belief.

CLIFFORD L. HILTON.

Subscribed and sworn to before me this 4th day of November, A. D., 1925.

PATRICK J. RYAN,
Notary Public, Ramsey County, Minnesota.
My commission expires Feb. 14th, 1926.

SUPREME COURT OF THE UNITED STATES

STATE OF MINNESOTA,

Petitioner.

—vs—

FIRST NATIONAL BANK OF ST. PAUL,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
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OF MINNESOTA

BRIEF OF PETITIONER

STATEMENT OF THE CASE

The State brought these proceedings to obtain judgment against defendant, a National Bank located in the City of St. Paul in the County of Ramsey, for the personal property taxes assessed against its shareholders for the years 1921 and 1922. The proceedings were separate for each year but involve the same questions and were tried together by consent. Defendant interposed answers asserting that the taxes were illegal and void for the reason that its shares were taxed at a rate largely exceeding the rate at which moneyed capital in the hands of individual citizens employed in competition with National Banks was taxed. The trial court made extended findings and directed judgment for the State. Defendant appealed from an order

denying a new trial. The facts are undisputed and the controversy is in respect to the conclusions to be drawn therefrom.

The foregoing paragraph is taken verbatim from the opinion of the Supreme Court of Minnesota. (R. 308.) It takes the case to the point of consideration of it by that court.

The Supreme Court thereupon, after a review of the decisions of this Court and after deducing therefrom what it considered the controlling principles, determined that the trial court's findings, in favor of the State, were without support in the evidence, and reversed the order of the trial court denying the Bank's motion for a new trial. (R. 307-324.)

The case went back for a new trial and was submitted on the record previously made, whereupon the trial court, giving effect to the decision of the Supreme Court, found that the shares of Respondent Bank were assessed at a higher rate than competing moneyed capital in Ramsey County and in the State of Minnesota, and directed judgment of dismissal in favor of the Bank. (R. 325-336.)

The State appealed from that judgment to the Supreme Court, and the Supreme Court, adhering to its first opinion, affirmed the judgment of dismissal. (R. 343.) Petitioner seeks a review of that final judgment.

THE STATUTES

All shares of National Banks, including those of respondent bank, involved in this proceeding, were assessed in 1921 and 1922, under provisions of Chapter 416, General Laws of Minnesota, 1921. This law provides for the listing of shares by the Bank and for the payment of taxes by the Bank for its shareholders. The capital, surplus

and undivided profits of the Bank are stated, the value of the real estate (directly taxed to the Bank) is deducted and the balance is taken as indicating the value of the outstanding shares. Under Chapter 483, Laws of Minnesota, 1913, Section 1988, Rev. Laws of Minn., 1913, a classification statute, 40% of the value so arrived at, is taken to be the taxable value of the shares. To this is applied the current ad valorem tax rate, that is, the rate which, when applied to a total taxable value of all real and tangible personal property in the taxing district will raise the amount needed for governmental purposes, and this results in the statement of the amount of taxes payable. This system of taxing shares of National Banks has been in force in Minnesota for a great many years, since 1878, or longer.

Money and credits everywhere in Minnesota were assessed, in 1921 and 1922, under the provisions of chapter 285, Gen. Laws of Minn., 1911, Sections 2316-2328, Gen. Statutes, 1913. Appendix A. by this Act, money and credits of every kind, except United States bonds, Minnesota state and municipal bonds, (tax-exempt,) and real estate mortgages paying a registry tax, are taxed at a flat rate of 3 mills on each dollar of full value thereof. It is claimed that by reason of the operation of this Money and Credits Act, Respondent's shares were assessed at a higher rate than competing moneyed capital in the hands of individual citizens of Ramsey County and of Minnesota, in violation of Section 5219, Rev. Stat. U. S., and in violation of that Section as amended in 1923, even if that amendment be applicable.

The pertinent clause of Section 5219, after permitting the taxation of shares, provides:

> "That the taxation shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such states."

It was amended on March 4, 1923, (page 84, Fed. Stat. Ann 1924, Sup.) so as to permit the states either to tax the shares, or to include dividends derived from shares in income for taxation purposes, or to tax the income of the banks. And in this amendment the limitation upon the direct taxation of shares was re-stated as follows:

> "In the case of a tax on said shares the tax imposed shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such State coming into competition with the business of National Banks: Provided, that bonds, notes or other evidences of indebtedness in the hands of individual citizens not employed or engaged in the banking or investment business and representing merely personal investments not made in competition with such business, shall not be deemed moneyed capital within the meaning of this Section."

And this amendment contained the following proviso:

> "The Provisions of Section 5219 of the Revised Statutes of the United States as heretofore in force, shall not prevent the legalizing, ratifying, or confirming by the States of any tax heretofore paid or levied, or assessed, upon shares of National Banks, or the collecting thereof, to the extent that such tax would be valid under said Section."

The Legislature of the State of Minnesota, on March 29, 1923, (Chap. 110, Laws 1923)—passed an Act in terms legalizing, ratifying and confirming all taxes theretofore levied and assessed under the laws of the State which might have been levied or assessed under the provisions of Section 5219, and under the provisions of that Section as amended.

THE FACTS

For 1921 the taxes assessed upon respondent's shareholders aggregated $160,859.54. The assessment rate was 67 mills on each dollar of taxable value. For 1922, taxes aggregated $160,591.26, under a 61.5 mill rate.

The evidence in the record covers both years. The showings for the two years, were, however, so nearly alike, that it will simplify this brief to state the facts for either year and declare that the evidence for the other year was substantially the same. Since we can see no material difference in the two years, we state the facts for the year 1921. Furthermore, since the City of St. Paul is almost co-extensive with the County of Ramsey, containing about 97% of the population of the County, and at least that percentage of its taxable property, we shall not distinguish between statistics which sometimes are restricted to the City of St. Paul, and sometimes cover the County as a whole; both parties, throughout the whole proceeding, having considered this difference so slight as not to have any material bearing upon the out-come of the case.

On May 1, 1921, the taxing date, the First National Bank of St. Paul had capital stock in the amount of $3,000,000.00, surplus, $2,000,000.00, undivided profits, $1,371,847.48, (R. 374, Defendant's Exhibit T.) Its resources for 1921, were $46,571,745.21, of which $556,199.42 was real estate. (R. 374, Defendant's Exhibit T.)

The capital, surplus and undivided profits of all of the National Banks in Ramsey County, including the First National Bank, on April 28, 1921, amounted to $14,009,788.21, of which $2,876,697.69, was real estate. (R. 372, Defendant's Exhibit S.) The total resources of National Banks in St. Paul, as of April 28th, 1921, were $104,145,000.00. (R. 363, Defendant's Exhibit M.)

All the National Banks in Minnesota, as of April 28th, 1921, had total capital, surplus, and undivided profits of $73,870,000.00, with deductible real estate of the value of $11,314,000.00. Their total resources were $530,286,000.00. (R. 363, Defendant's Exhibit M.)

In 1921, Money and Credits listed for taxation in Ramsey County, amounted to $83,965,268.00. (Findings of Trial Court R. 332.) Because of practical difficulties only returns amounting to more than $4,000.00 were analyzed, that is, in the separations of money and credits reported by individuals from those reported by corporations and the separations into the various items constituting the lists only such returns were examined. The total money and credits so analyzed amounted in 1921, in Ramsey County, to $76,635,111.00, (R. 357, Defendant's Exhibit G.) Of this amount, $51,464,417.00 was listed by corporations, and $25,170,614.00, by individuals, (R. 361, Defendant's Exhibit K.)

For the entire state, the money and credits lists amounted to $425,745,839.00, (R. 393, State's Exhibit 5.) How much of this total was assessed to corporations, and how much to individuals, was not ascertainable.

In determining that these lists included moneyed capital coming into competition with National Banks, the Supreme Court of Minnesota discussed only three of the fifteen items in the lists. It is fair to assume that only these three items so referred to are worthy of consideration here. The items were, "Item 4," "promissory notes, bills of exchange, due bills, cream checks and similar evidence of indebtedness;" "Item 5," "bonds, except municipal and United States bonds, and such as are secured by real estate mortgages recorded in this State;" and "Item 10," "book accounts."

In Ramsey County, in 1921, individuals listed "promissory notes, etc.," of the value of $2,481,446.00, "bonds" of the value of $7,595,975.00, and "book accounts" of the value of $2,566,712.00, (R. 361, Defendant's Exhibit K.)

No similar statistics for the entire State were available There has never been a segregation of money and credits of corporations and of individuals for the State, and only for 1918 was there available the totals of each of the fifteen items comprised in the lists. In 1918, the total of money and credits for the State was $325,680,420.00, of which the three items above referred to, corporations and individuals included, were as follows: "Promissory notes," etc., $32,980,800.00; "bonds," $14,708,895.00;" and "book accounts," $111,842,966.00." (R. 358, Defendant's Exhibit H.)

The County Assessor was able to throw some light upon the nature of these items as they appeared in the Ramsey County tax lists.

He said that promissory notes constituted nearly the whole of "Item 4," and that "bills of exchange," "due bills," "cream checks," and similar evidence of indebtedness included in the item were, in Ramsey County, insignificant in amount; and then he said, which to us seems of the utmost importance, based, as it was upon personal contact with the larger tax-payers, "that the promissory notes are very largely made up of corporations and business concerns and in almost all cases those promissory notes are accepted by the concerns for past due indebtedness." (R. 163.) He was unable to say anything concerning the nature of the promissory notes of individuals (R. 163.) As to bonds, the Assessor said the bonds included in the tax rolls in Ramsey County, represented investments of surplus funds, making it clear that he meant to distinguish between investments of savings and purchases of bonds in the busi-

ness of dealing in bonds or in any allied or like business. (R. 161, 162.) He threw no new light on the item "book accounts."

There was no testimony concerning the nature of these items as they appeared in the tax lists of the State outside Ramsey County, other than that which may be inferred from the description of the items themselves.

The president of the respondent bank testified, obviously without knowing anything of the precise nature of the items included in the money and credits list, that substantially all of the property described in those lists, both in Ramsey County and throughout the State, was moneyed capital coming in competition with National Banks. (R. 196-232.) The president of another National Bank gave somewhat similar testimony. (R. 176-179.) The president of the Central Metropolitan Bank of St. Paul, a state bank, a witness for the State, testified that there was no appreciable competition with State or National Banks in any of the items included in the lists. (R. 233-249.)

The Court referred to some additional facts showing in a general way the extent of the operations of corporations engaged in dealing in commercial paper, and in cattle mortgage loans, and of business concerns receiving loans from their officers and employes, but this testimony was of such a character that the court did not greatly rely upon it and it did not form the basis of the Court's decision. This testimony is referred to and discussed briefly in the argument.

It was shown that prior to 1911 the State had met with little success in its efforts to tax intangible personal property. It was able to assess such property while in the hands of representatives of estate, or in trust funds under court control, but little else. The experience elsewhere was the same. (Report of State Tax Commission State's Exhibit 4,

R. 389-392.) The Money and Credits Act here involved was proposed as a remedy to existing conditions. Immediately upon its passage the assessed moneys and credits greatly increased, and almost immediately revenues at the lower rate increased, and both have continuously increased since then. The increase has proceeded at least as rapidly as increases in revenue from taxes on shares of National Banks, as the following tables will show:

Revenues received by the State, for exclusively state purposes, in the years for which statistics are available, from shares of National Banks, and from money and credits were as follows:

Year	Shares	Money & Credits
1907	$ 48,768	
1908	50,113	
1909	43,876	
1910	45,834	
1911	67,708	$ 57,837
1912	64,309	67,412
1913	101,563	78,126
1914	81,831	98,813
1915	63,324	106,541
1916	67,111	111,971
1917	93,950	142,832
1918	69,132	165,241
1919	165,966	174,995
1920	117,764	221,560
1921	102,488	212,873
1922	100,405	200,479

These figures are from State's Exhibit 7, (R. 395), and State's Exhibit 5, (R. 393.) The State revenue from money and credits is one-sixth of the whole, and is so calculated

from Exhibit 5. The receipts of the State from taxes on money and credits prior to 1911 are not shown. The total of such taxes collected for State and local purposes, were as follows: 1907, $480,864; 1908, $395,197; 1909, $368,077; 1910, $379,754. State's Exhibit 5, (R. 393.) They were decreasing.

Taxes collected in Ramsey County on shares of National Banks and Money and Credits, were as follows:

Year	Shares	Money & Credits
1907	$ 85,315	$ 40,447
1908	101,747	27,360
1909	105,425	33,211
1910	102,873	83,251
1911	106,095	72,231
1912	109,965	76,785
1913	170,931	103,714
1914	186,272	125,580
1915	194,425	130,058
1916	156,776	146,115
1917	174,694	187,924
1918	194,512	217,013
1919	283,836	230,601
1920	301,065	272,365
1921	294,219	252,281
1922	285,070	250,804

These figures are from State's Exhibit 5, (R. 393,) and State's Exhibit 6, (R. 394.)

Comparisons of actual tax burdens, that is comparison of revenues received by the State from money and credits of individuals and corporations, and revenue received from similar property when held by National Banks may readily be made from the exhibits received in evidence on the trial.

In 1921, the intangible resources of Respondent Bank were $46,015,545.29. In 1922, they were $52,927,523.88. Taxes actually assessed against shareholders, and taxes which would have been assessed against an individual owing money and credits in those amounts were as follows:

	1921	1922
Respondent's taxes	$160,859.54	$160,591.26
Individual's taxes	138,046.63	158,782.58

(These calculations are based upon State's Exhibit T. R. 374.) The taxes upon shareholders are those actually assessed. (Findings of trial court R. 331.) Individual taxes are calculated by subtracting tangible resources from total resources and applying the 3 mill rate. The individual would have to pay a substantial amount in addition—equal to a tax on the value of furniture and fixtures at the ad valorem rates. In the comparisons which follow such additional taxes chargeable against individuals are left out of consideration.

For Ramsey County the comparison of taxes paid by shareholders and those chargeable to individuals and corporations, based upon similar computations from the same Exhibit M are as follows:

	1921	1922
Taxes on bank shares	$294,219.00	$285,070.00
Taxes on individuals	306,342.00	322,299.00

For the whole state the comparison is:

	1921	1922
Taxes on bank shares	$ 1,279,418.00	$ 1,302,409.00
Taxes on individuals	1,551,431.00	1,586,142.00

In this calculation, Exhibit M is again used, and in arriving at taxes on shares the average tax rate for the state, 52.67 mills in 1921, and 54.23 mills in 1922, is used.

Substantially the same situation may be shown, and the relative equality of taxation may be shown by setting out the actual total listings of Money and Credits in Ramsey County, and in the State, together with tax revenue therefor, and in juxtaposition, the intangible resources of National Banks and the tax revenue from their shares. These figures are:

1921

Ramsey County

Money and Credits,			
Ramsey County	$ 84,093,488	Tax	$252,281
Intangible resources,			
National Banks of Ramsey County	102,114,000	Tax	294,219

1922

Ramsey County

Money and Credits,			
Ramsey County	$ 83,601,268	Tax	$250,804
Intangible resources,			
National Banks of Ramsey County	107,433,000	Tax	285,070

1921

State of Minnesota

Money and Credits,			
Entire State	$425,745,839	Tax	$1,277,242
Intangible resources,			
National Banks of Entire State	517,144,000	Tax	1,279,418

1922

State of Minnesota

Money and Credits,			
Entire State	$400,960,331	Tax	$1,202,878
Intangible resources,			
National Banks of Entire State	528,714,000	Tax	1,302,409

ARGUMENT

1. Purpose and Effect of Money and Credits Law.

This Court has declared:

> "It has never been held by this Court that the States should abandon systems of taxation of their own banks, or of money in the hands of their other corporations, which they may think the most wise and efficient modes of taxing their own corporate organizations, in order to make that taxation conform to the system of taxing the National Banks upon the shares of their stock in the hands of their owners. All that has ever been held to be necessary is that the system of state taxation of its own citizens, of its own banks, and of its own corporations shall not work a discrimination unfavorable to the holders of the shares of the National Banks."

Davenport National Bank vs. Davenport Board, 123 U. S. 83, and,

> "It is essential, if the law of the State is to be declared invalid under the limitations expressed in the United States Statute, that the enactment of the legislature shall evidence a disposition to evade or override the spirit of the limiting statute."

Jenkins vs. Neff, 186 U. S. 230.

In many of the States of the country, efforts to tax intangible personal property at the same rate or in the same manner as tangible property have been given up as hopeless. Laws taxing money and credits at a low fixed rate, or applying the general ad valorem rate to a very low percentage of value have been enacted; or there has been a total or partial exemption of such property, either in connection with an income tax, or regardless of it. The impossibility of taxing it on an equality with tangible property is everywhere recognized. The Supreme Court of Minnesota, in its opinion in this case, declares this to be the situation. Frequently it is declared that there is no justice in taxing credits at all on the ground that any imposition upon them involves double taxation. The problem is one presenting great practical difficulties. And the different States have endeavored to meet it in the various ways which we have described in an effort to deal fairly, and justly, and workably with the taxation of this kind of ownership of wealth.

On the other hand, there has been no sense of wrong or injustice in taxing shares of stock in banks, whether State or National, as tangible property has been taxed. They are forms of property essentially different from promissory notes or bonds. They reflect net wealth embarked in profitable commercial enterprises.

There is, in short, a widespread, well informed, honest opinion that taxation of ordinary money and credits at a low rate is sound and just policy, and there is a like opinion that shares of National Banks are fairly and justly taxable on an equality with tangible wealth and shares of other corporations. And this opinion does not fail to perceive that when the same amount of revenue is received from

money and credits owned by individuals and corporations as is received from shares of banks having a like amount of moneyed resources there is, in fact, genuine equality of taxation.

These views account for the persistence in taxing bank shares as they always have been taxed, while the effort to find a satisfactory system of taxing money and credits continues along lines of reducing tax rates on them, or moves toward their partial or total exemption in the avoidance of double taxation.

The decision of the Supreme Court of Minnesota did not deny these things or overlook them. The holding was that the express limitations of Section 5219 forbade their recognition. The Court held to the letter of the law; whereas, the spirit of it as interpreted in the decisions of this Court is, we submit, that of permitting just and workable tax laws upon property within the State and permitting just and workable taxation of shares, so long as there be no discrimination against National Banks and in favor of capital with which such banks come in commercial conflict.

These conditions are satisfied where, as here, the law which is claimed to offend against the federal act is one which aims to increase taxes on moneyed capital and which, judged by common sense practical standards, succeeds in its purpose, and where there is no real or meritorious basis for any complaint by National Banks as to its aims or as to its results in actual operation. Theoretically taxes on moneyed capital were reduced by the terms of this Act; actually they were increased. Theoretically, if we look merely at rate numerals, taxes on any moneyed capital which might come in competition with National Banks were reduced, and such capital was favored as against banking capital; practically, any moneyed capital, which might come in competition with banks was compelled, or

induced, to pay taxes, where previously it had paid none. We say that such capital previously paid no taxes because, virtually, only the money and credits in the hands of guardians, administrators, and the like, were taxed.

The law, therefor, did not, either in its purpose or effect injure or discriminate against National Banks, on the contrary, it helped them in bringing into the public treasury, revenue from a class of property which otherwise would contribute little or nothing to the common burden. We submit that Section 5219 did not intend to prevent such legislation.

2. TAXES ON MONEY AND CREDITS ARE EQUAL TO TAXES ON SHARES OF NATIONAL BANKS

The State not only showed that shareholders of National Banks reaped the benefit, in common with all other taxpayers, of increased collections of taxes from owners of money and credits, but demonstrated that, fairly compared, taxes on money and credits were equal to taxes on shareholders of National Banks.

Where taxes in one instance are assessed against a corporation on its property, and in another on shareholders, the relative tax burdens can only be compared, by attributing the corporate tax to its shareholders, or by attributing the tax on shareholders to the corporation. Plainly where two corporations have equal assets and equal capital stock, their taxes are equal when the revenues received from them, whether coming from taxes assessed against the corporation, or whether coming from taxes assessed against the shareholders, are equal.

In Minnesota, corporations are taxed upon all of their property regardless of liabilities, and the shareholders are not taxed. Where shareholders are taxed on the value of

the shares owned by them, there inheres in the form of taxation a deduction of corporate liabilities from resources. (First National Bank of Wellington vs. Chapman, 173 U. S. 205, 215.) And where individuals are taxed on all property owned by them, without right of deducting liabilities, (as in Minnesota,) taxation of individuals corresponds with taxation of corporations, as distinguished from taxation of shareholders.

It means nothing, therefore, to say that the tax rate on money and credits of corporations and individuals in Minnesota is lower than the tax rate on shares of National Banks. The question is, we submit, whether under all the circumstances, the tax burden is greater or less on one class than on the other.

And the fact is that a Minnesota corporation having the same resources in money and credits and the same capitalization as a National Bank will pay substantially the same taxes as shareholders in the National Bank. The tax on shareholders of National Banks, by actual calculation, is substantially equal to a tax of three mills on the moneyed capital of the bank. A concrete statement of the comparative workings of the two systems may be made. If respondent Bank had paid the taxes assessed against its shareholders in 1921 and 1922, it would have paid but little more than an amount equal to three mills on its intangible resources, that is, a little more than a corporation or individual having a like amount of money and credits would have had to pay. In the same years, the National Banks of Ramsey County paid taxes, for their shareholders, amounting to less than three mills on their intangible resources. And in those years, taxes paid by National Banks throughout the State, for their shareholders, amounted to less than what corporations and individuals would have been charged with at the three mill rate on an equal amount of money and

credits. Another form of statement is that a private banker, having resources equal to any designated National Bank, or all of the National Banks of Ramsey County, or all of the National Banks of the State, if permitted to operate in Minnesota, in 1921 and 1922, (there were none) would have paid under the three mill money and credit rate, more taxes than National Banks paid in behalf of their shareholders.

The Supreme Court of Minnesota, recognizing that the application of identical tax rates to the property of a corporation in one instance and to corporate shares in another, must produce greatly different results, said in effect that these comparisons were unavailing because while Minnesota corporations and individuals were required to pay on all of their money and credits, National Banks could not be taxed on their property and shareholders of National Banks were required to pay on the full value of their shares, thus applying a uniform rule. But we submit that the Court might have said, with almost as much force, that since shareholders of Minnesota corporations paid no taxes whatever on their shares, and shareholders of National Banks were required to pay taxes on their shares, there was gross discrimination against shareholders in National Banks. The true answer is, we think, that while Minnesota shareholders are not taxed on their shares, taxes are imposed upon the corporate property reflected in their shares, and because of this the exemption of shares from taxation resulted in no unfairness to bank shareholders. But certainly this answer is not complete unless we are able to say further that the taxes imposed upon the property of such other corporations are sufficient in amount to justify exempting their shareholders. The exemption is justifiable, and equality exists, where corporations of the same class are assessed by the different methods, only when taxes assessed against corporations equal those assessed

against shareholders. Comparison is not escapable, and is not prohibited because in the one case shareholders, under the local law, may not be taxed and in the other, the corporation, under the Federal law, may not be taxed.

This Court has declared that the Federal Act does not require merely equality of rates, that it commands equality of taxes, (People vs. Weaver, 100 U. S. 539;) that it has "to do with the actual incidence and practical burden of the taxpayer, (New York ex rel Amoskeag Savings Bank vs. Purdy, 231 U. S. 373) and it has clearly indicated that it will compare actual results in taxation for the purpose of determining whether taxes on bank shares are higher than taxes on competing moneyed capital, (Mercantile National Bank vs. Mayor, 121 U. S. 138; New York ex rel Amoskeag Savings Bank vs. Purdy, 231 U. S. 373 supra, Bank of Redemption vs. Boston, 125 U. S. 60.)

We submit that the Supreme Court of Minnesota failed in its decision to give effect to the principles so declared by this Court.

3. COMPETING CAPITAL

a. Promissory Notes, Book Accounts.

The Supreme Court of Minnesota, having concluded that the decisions of this Court barred it from considering the purpose or effect of the Money & Credits Law, and barred it from comparing tax burdens, as distinguished from rates, proceeded to determine whether under the decisions of this Court, the money and Credits tax lists included a material and substantial amount of moneyed capital coming into competition with National Banks. It concluded that proof of the existence of large amounts of promissory notes, book accounts, and bonds, required a determination that there was in the County and State, a substantial and mate-

rial amount of such capital included in the tax lists. And in so holding, without further considering the characteristics of such notes, book accounts, and bonds, our Court further misinterpreted the rulings of this Court.

Promissory notes, book accounts, and bonds, are not per se moneyed capital coming in competition with National Banks unless this Court has used the word "competition" in the same sense as did the president of the respondent bank in his testimony on the trial of this case. His view is fairly reflected in the statements "that anything which takes money is competitive with us, who are loaners of money" (R. 212.) "We feel competition on anything wherever money is employed, naturally" (R. 213.) In this view there is very little, if any, difference between "book accounts" and promissory notes. And on the record, there is no appreciable difference between them, because the testimony is that the notes listed by corporations were given by customers in payment of past due accounts. Certainly there is no reason for inferring that promissory notes listed by individuals differ from those held by corporations.

And when we further recognize that, as a matter of common knowledge, promissory notes held by individuals, not representing past due accounts, ordinarily stand for loans made among relatives and friends, made usually where banking credit is lacking, there is very little left on which to base any claim that proof of the existence of promissory notes established the existence of moneyed capital coming in competition with National Banks. Except for "commercial paper," promissory notes, on the undisputed testimony and the only fair inferences which may be made, are no more competitive with National Banks than book accounts. The Supreme Court of Minnesota, we submit, was right in treating them alike.

This Court has never held that book accounts constitute

moneyed capital coming in competition with National Banks. It seems to us that First National Bank vs. Wellington, 173 U. S. 205, in declaring that claims and demands for labor or service due or to become due "are not in any sense of the statute moneyed capital" indicates a contrary opinion.

And further, we believe that this Court has never held that promissory notes, as such, without further showing as to their nature, constitute competing moneyed capital. It seems to us that First National Bank of Aberdeen vs. Chehalis County, 166 U. S. 440, and First National Bank of Commerce vs. Seattle, 166 U. S. 433, in declaring that an allegation that $237,400.00 was invested by individual citizens of Chehalis County, "in loans and securities to them payable," and that such capital "was all the moneyed capital owned by resident individual citizens and invested in interest bearing loans, discounts and securities" left the Court, "uninformed whether the moneyed capital left unassessed was, as to any material portion thereof, moneyed capital coming into competition with National Banks" are direct rulings that loans and securities are not per se capital coming into competition with National Banks.

Mere proof, therefore, of the existence of promissory notes shows nothing. There must be, further, some evidence of characteristics or use bringing them in competition with National Banks. Here, insofar as there is proof, the showing, except as to commercial paper, negatives competition.

The evidence as to "commercial paper" was not such, as, under the decisions of this Court, would warrant or require a finding of discrimination against National Banks, and the Supreme Court of Minnesota plainly did not so consider it. Briefly stated, the testimony was that a great deal of money was borrowed in Minnesota and Ramsey County by commercial houses located there, through note

brokers. Only two note brokers were specifically referred to and they were corporations, (R. 114, 190,191.) They loaned money in Ramsey County but they were not shown to be taxable there. The assessor of Ramsey County knew of only two small "investment" houses paying taxes in Ramsey County and there was nothing to indicate that either of them were the note brokers referred to. (R. 165, 166.) Obviously proof that two such corporations were doing business in Minnesota, in 1921 and 1922, was not sufficient to show that a material amount of competing moneyed capital owned by financial corporations, was assessed more favorably than shares of National Banks. And if they did any great amount of business it is quite likely that taxes on their loans at the three mill rate would greatly exceed a tax on their capital at the ad valorem rate. The further showing was that these note brokers sold their commercial paper principally to banks. (R. 204-206.) There was some evidence, very vague and indefinite, that some of this paper got into the hands of individuals. (R. 178, 179.) Certainly on this evidence, there could be, and was, no finding that the item "promissory notes" in the tax list included any material or substantial amount of commercial paper in the hands of individual citizens of Ramsey County, or the State of Minnesota.

The only additional testimony tending to characterize the item "promissory notes" in the tax lists is found in the evidence that statements of financial condition made by commercial houses in St. Paul to respondent bank disclosed that officers and employes of such concerns had loaned their employers sums aggregating at least $1,500,000.00. (R. 204.) But nothing further as to the nature of these loans was disclosed. Obviously, they may have been partial payments on the purchase of stock; they may have been salaries or commissions retained for disburse-

ment at a specified date, as at the end of the year; or they may have been the result of efforts to promote thrift among employes. They would not be competitive capital in any of these cases. (Stocks, Mercantile National Bank vs. Mayor, 121 U. S. 138; earnings, First National Bank of Wellington vs. Chapman, 173 U. S. 205; promotion of thrift, Davenport National Bank vs. Board, 123 U. S. 83, 86.)

CATTLE LOAN PAPER

The Supreme Court of Minnesota referred to only one additional class of credits, and that class may be appropriately discussed with commercial paper. The showing was that three corporations, one located in Ramsey County and affiliated with a National Bank, one located outside of Ramsey County, and one not a Minnesota corporation, (R. 193, 194,) sold in Minnesota, a large amount of "cattle loan paper." But only $580,665.00 of this paper was sold to individuals over the State of Minnesota in 1921, and less than that was so sold in 1922. Exhibit R., R. 371.) There was no evidence as to how or where these corporations were taxed or where their shareholders resided. As to individual purchasers, the papers held by them, distributed as it was over the entire state, was not material or substantial in amount. Furthermore, there was no proof as to the nature of these "cattle loans." Since the only corporation dealing in these loans, which was identified, was affiliated with a National Bank, it is not to be supposed that the few individuals who bought such papers were in competition with National Banks. And it may be supposed too, that the corporations conducting this business exist for the purpose of enabling National Banks to safely participate in these loans, since most of the loans were sold to banks.

b. BONDS.

The Assessor said that bonds listed by individuals represented investments of savings and were not holdings of persons engaged in dealing in bonds. (R. 161, 162.) The ruling of the Supreme Court is based upon this declaration. They were taxable bonds, therefore, they were bonds of railroads, manufacturing companies, public utilities, and the like.

This Court said in First National Bank of Aberdeen vs. Chehalis County, 166 U. S. 440, 461, that an allegation that, "there was invested in the stocks and bonds of insurance, wharf, and gas companies, and other moneyed institutions, moneyed capital amounting to at least $26,000,000.00," was not significant "because such companies are not, as we have seen, competitive for business with the National Banks, and therefore, might be legally exempted."

Bonds are essentially long term loans. As such National Banks may not invest in them. Actually, most bonds are readily marketable, and where they are listed on the New York Exchange, and are actively dealt in there, the banks buy them as short term investments. The respondent bank buys only listed bonds, (R. 220.) Insofar as this use of resources by banks amounts to buying and selling bonds,—trafficing in bonds, it is unauthorized. Morse on Banks & Banking (5th Ed.) Vol. 1, Sec. 59,77, and see, Logan Co., National Bank vs. Townsend, 139 U. S. 67,73, 76.

In any event, in no practical sense can it be said that the purchase of bonds by individuals as investments of their savings is competition with National Banks. From a practical standpoint, National Banks can only profitably employ their resources in bonds by buying them with a view to resale to their patrons. There is no competition between buyer and seller. In addition, they may invest temporarily

idle funds in bonds which can be quickly sold at the price paid for them. This is made possible only through the readiness of owners of surplus funds to purchase them when the banks find it necessary to recover their resources for proper banking uses. In a word, bonds, except government bonds, and investments in bonds, are outside the field in which National Banks may legally operate; regardless of this, to some extent they find it profitable to go beyond their powers and to take advantage of investment possibilities outside the banking field, but that does not bring such investments into competition with them. It is difficult to see, therefore, where, or how, bonds representing investments of savings by individual citizens can come in competition with National Banks, unless the rulings of this Court mean that all money at interest is competing capital.

Altogether, therefore, there is nothing in the nature or characteristics of notes, book accounts, or bonds, which requires a ruling that the mere ownership of them brings the holder in competition with National Banks. And this Court has never so held.

RULING OF THIS COURT IN RICHMOND BANK CASE

The decision of the Supreme Court of Minnesota was based principally, if not wholly, on the decision of this Court in Merchants National Bank vs. Richmond, 256 U. S. 635. But that case did not decide that all bonds, notes, or evidences of indebtedness were moneyed capital coming into competition with National Banks. The ruling there was as if the petition alleging that bonds, notes, and evidences of indebtedness in the hands of individuals, coming into competition with National Banks, were taxed at a lower rate than bank shares, had been demurred to.

The assertion of the bank that the Richmond lists included a substantial amount of moneyed capital coming into competition with National Banks was left undisputed, more, it was virtually admitted in the testimony of the Virginia Commissioner of Revenue, (Record of that case, page 42.) The Supreme Court of Appeals of Virginia ruled that only moneyed capital employed by state banks, none of which was in the intangible lists, came into competition with National Banks. That view was held to be erroneous and that holding disposed of the only issue made on the record.

If this Court intended to declare that bonds, notes, and evidences of indebtedness were per se forms of competing capital it would not have been necessary to add that the notes, bonds, and evidences of indebtedness referred to, were shown by evidence without dispute to come into competition with National Banks (638.) Nor would the Court have said later in the opinion: (p. 641:)

> "No decision of this Court to which our attention is called has qualified that rule, or construed Section 5219 as leaving out of consideration the rate of State taxation imposed upon moneyed capital in the hands of individual citizens, invested in loans or securities for the payment of money, either for permanent or temporary investment, *where such moneyed capital comes into competition with that of National Banks.*"

The Supreme Court of Minnesota overlooked the controlling reservation which we have italicized and stated the rule to be, and applied it, in the following form:

> "Credits in the form of interest bearing demands and money invested in loans or securities, whether such investments are of a permanent character or for a temporary purpose * * * * *are deemed moneyed*

capital used in competition with national banks within the meaning of Section 5219.

These comparisons, it seems to us, absolutely demonstrate the sharp difference between the views of the Supreme Court of Minnesota and the views of this Court.

In the Richmond case the Supreme Appellate Court of Virginia ignored the showing as to competition between individuals owning moneyed capital and National Banks, because it thought such competition irrelevant, here the Minnesota Supreme Court ignored the lack of evidence of competition between moneyed capital owned by individuals and National Banks, because it thought any such evidence immaterial in a case in which individuals were shown to be the owners of notes, bonds, and book accounts.

Of course, promissory notes may be held by individuals in competition with National Banks, and it may be that book accounts or bonds can be held under such circumstances as to bring them in competition with National Banks, but they are not necessarily competitive, and the burden of proof is with whoever asserts that they are competitive, (People ex rel Amoskeag Savings Bank vs. Purdy, 231 U. S. 373, 392, 393.) They were not shown in this case to be competitive, and the Supreme Court's ruling, overturning the trial court's finding that there was no material competition, is based wholly upon its theory that the decisions of this Court hold that they are under all circumstances competitive, in which ruling we submit, it misapplied this Court's decision's.

Respectfully submitted,

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APPENDIX A

Chapter 285—H. F. No. 331.

An Act establishing a uniform tax on certain classes of personal property.

Be it enacted by the Legislature of the State of Minnesota:

TAXATION OF MONEY AND CREDITS—Section 1. "Money" and "Credits" as the same are defined in Section 798, "Revised Laws of 1905," (N. 1,) are hereby exempted from taxation other than that imposed by this Act and shall hereafter be subject to an annual tax of three mills on each dollar of the fair cash value thereof.

But nothing in this Act shall apply to money or credits belonging to incorporated bank situated in this State, nor to any indebtedness on which tax is paid under chapter 328, General Laws of 1907. (N. 2.)

HOW LISTED—Section 2. All "Money" and all "Credits" taxable under this Act shall be listed in the manner provided in Section 816, "Revised Laws of 1905," but such listing shall be upon a separate blank from that upon which other personal property is listed.

ASSESSMENT BY ASSESSOR—Section 3. Before making an assessment of "Money" and "Credits" under this Act, the assessor shall give seasonable notice to the inhabitants of his district in the manner prescribed in Section 808, "Revised Laws of 1905." He shall require each individual, co-partnership, company, association or corporation in his district to bring in before a date therein specified and not later than the first day of July a true list of all their "Moneys" and "Credits" taxable under this Act.

TAX COMMISSION TO PREPARE INSTRUCTION—Section 4. The Minnesota tax commission shall annually prepare instructions for bringing in the lists required by the preceding Section. They shall prepare and distribute through the county auditors to the assessors a form for the returns which the taxpayers are required to make by

this Act, and this form shall be printed on a separate sheet, and shall be entirely distinct from the forms prepared for the returns of other classes of property. This form shall require the taxpayer to make a return of the total amount of his "Money" and "Credits" taxable under this Act.

The Minnesota tax commission shall cause to be printed and shall furnish assessors blank lists for the return of property taxable under this Act, and the assessor shall distribute a blank list to every person liable to taxation.

STATEMENT TO BE MADE UNDER OATH—Section 5. The assessor shall in all cases require a person bringing in a list to make oath that it is as nearly correct as he is able to make it and this oath shall be attached to and be a part of such list.

Such list shall be open to the inspection of the assessor, county auditor, their deputies and clerks, the board of review, the board of equalization, their clerks, the Minnesota tax commission and its assistants and clerks, but the details of the lists made by taxpayers shall be disclosed to no other person except by order of Court, and any assessor or other person who shall disclose such details shall be liable to a fine of not less than one hundred dollars nor more than five hundred dollars. The lists shall be delivered by the assessor to the county auditor and by him preserved.

ASSESSOR TO ACCEPT AS TRUE—Section 6. The assessors shall receive as true except as to valuation, the list brought in by each person, unless on being thereto required by the assessor he refuses to answer on oath all reasonable and necessary inquiries as to the nature and amount of his property taxable under the provisions of this Act.

TO ASCERTAIN PARTICULARS OF PERSONAL ESTATE—Section 7. The assessor shall ascertain as nearly as possible the particulars of the personal estate subject to taxation under this Act of any person who has not brought in such list, and shall estimate its just value according to his best information and belief. He shall also add thereto fifty per cent of the estimated value of such

property as a penalty; and such estimate, with the penalty of fifty per cent, shall be entered in the valuation books, and shall be conclusive upon any person who has not seasonably brought in a list of his estate unless he can show reasonable excuse for the omission.

ASSESSOR TO SPECIFY THE AMOUNT OF EACH—Section 8. In making such estimate the assessor shall specify the amount of "Money" and "Credits" separately and shall enter the same upon the books furnished under the provisions of Section 10 of this Act. An error or overestimate, or either, shall not be taken into account in determining whether a person is entitled to abatement, but only the aggregate amount of such estimate.

CHANGE OF DOMICILE—Section 9. After property taxable under the provisions of this Act, has been legally assessed to any inhabitant of the State of Minnesota, included any executor, administrator, or trustee, an amount not less than that last assessed by the assessor of such district in respect of such property shall be deemed to be the sum assessable, until a true list of such property is brought in to the assessor in accordance with the provisions of Section 3, of this Act. When a person liable to be taxed for personal property included within the provisions of this Act changes his domicile, the assessor of the district to which he removes shall assess him for an amount not less than that for which he was assessed in the district from which he removed, until he files the list required by Section 3, of this Act. The duties of assessors under this Section shall be the same as prescribed in Section 858, Revised Laws of 1905, and whoever neglects to perform any duty imposed upon him by this Section shall be guilty of a misdemeanor.

TAXABLE PROPERTY—Section 10. Property taxable under this Act shall not be included in the valuation list which assessors are required to make under the provisions of Section 835, Revised Laws of 1905, but shall be listed in a separate book or in a supplement to the regular assessment book which the county auditor shall provide

for each assessor on or before the first day of May, each year.

This book, supplement, shall show the total amount of "Money" and of "Credits" assessed to each taxpayer under the provisions of this Act, and shall not disclose further details of his assessment. It shall contain also a summary showing the number of individuals, firms, associations, trustees, etc., assessed for such property and the total amount of "Money" and "Credits" taxable under the provisions of this Act. When making the return to the county auditor provided for by Section 850, Revised Laws of 1905, the assessor shall file this valuation book, or supplement, together with the summary of the same and the listing blanks filled out by each taxpayer assessed under the provisions of this Act.

The county auditor, when compiling the returns required by Section 862, Revised Laws of 1905, shall include, under a separate heading the aggregate assessment in each district of property assessed under the provisions of this Act.

REVIEW OF ASSESSMENT—Section 11. The assessment under this Act shall be reviewed and equalized the same as the assessment of other personal property is reviewed and equalized.

COMPUTATION OF COUNTY AUDITORS—Section 12. The county auditor of each county shall compute the taxes under this Act each year against each individual, co-partnership, company, association, or corporation and he may include such tax on the personal property tax list with the other personal property tax levied against such individual, co-partnership, company, association, or corporation where the assessment is made.

The tax levied under this Act shall be collected by the county treasurer, or sheriff, the same as other personal property taxes are collected.

APPORTIONMENT OF RECEIPTS—Section 13. All taxes paid to the county treasurer under the provisions of this Act shall be apportioned, one-sixth to the revenue fund of the State of Minnesota, one-sixth to the county revenue

fund, one-third to the city, village or town and one-third to the school district in which the property is assessed.

Section 14. This Act shall take effect and be in force from and after its passage.

Approved April 19, 1911.

(N. 1.)

SECTION 798, REVISED LAWS OF MINNESOTA, 1905

OTHER DEFINITIONS—In the construction of this Chapter, the following rules shall be observed, unless such construction would be inconsistent with the manifest intention of the legislature, or repugnant to the context:

1. "Money" or "Moneys" shall mean gold and silver coin, treasury notes, bank notes, and other forms of currency in common use, and every deposit which any person owning the same, or holding in trust and residing in this State, is entitled to withdraw in money on demand.

2. "Credits" shall mean and include every claim and demand for money or other valuable thing, and every annuity or sum of money receivable at stated periods, due or to become due, and all claims and demands secured by deed or mortgage, due or to become due.

(N. 2.)

(Operates to except real estate mortgages on which registry taxes only are payable.)

SUPREME COURT OF THE UNITED STATES

STATE OF MINNESOTA, *Petitioner.*

vs.

FIRST NATIONAL BANK OF ST. PAUL, *Respondent.*

NOTICE

To First National Bank of St. Paul, Respondent:

Please take notice that upon a certified copy of the transcript of record herein, we shall present the Petition for Writ of Certiorari and the Brief in support thereof, hereto annexed, to the Supreme Court of the United States at the Capital, in the City of Washington, District of Columbia, on the 7th day of November, 1925, on the opening of the Court on that day, or as soon thereafter as counsel can be heard.

We shall request the clerk of the Supreme Court to make such presentation for us.

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G. A. YOUNGQUIST,
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